

Maine Revised Statutes
Title 12: CONSERVATION
Chapter 625: WHOLESALE AND RETAIL LICENSES

§6856. SHELLFISH SANITATION AND DEPURATION CERTIFICATE

1. Shellfish sanitation certificate. A person may not undertake the processing, buying, selling, shipping, transporting or shucking of shellfish or whole scallops without a shellfish sanitation certificate unless authorized under section 6701 or 6702. The commissioner may issue a shellfish sanitation certificate to a wholesale seafood license holder, a limited wholesale shellfish harvester's license holder or a shellfish transportation license holder that authorizes the holder to undertake the activities expressly authorized therein, which may include buying and selling, shipping, transporting, shucking or other processing of shellfish or whole scallops. A wholesale seafood license, limited wholesale shellfish harvester's license or shellfish transportation license is also necessary to undertake the activities authorized under those licenses.

[2005, c. 508, §2 (AMD) .]

2. Express authorizations. The commissioner shall expressly state the authorized activities on each shellfish sanitation certificate. The activities authorized must be sufficient to allow the holder to carry out the holder's wholesale or transportation operations, except that the operations may be limited to the extent required to protect the public health.

[2003, c. 248, §11 (AMD) .]

3. Depuration certificate. A person may not take shellfish from closed areas for depuration, processing and transportation without a depuration certificate. The commissioner may issue a depuration certificate to a wholesale seafood license holder that authorizes the holder to take shellfish from closed areas for depuration, processing and transportation. The certificate must establish limits on harvesting, depurating and processing methods and any other provisions required to ensure the public safety. The commissioner may permit depuration of shellfish not contaminated by paralytic shellfish poisoning if it is established that the water used during depuration will not contaminate the shellfish with paralytic shellfish poisoning.

[2011, c. 175, §1 (AMD) .]

3-A. Municipal consultation and approval; depuration harvesting.

[2011, c. 175, §2 (RP) .]

3-B. Municipal pollution abatement plan.

[2011, c. 175, §3 (RP) .]

3-C. Municipal depuration management plan.

[2011, c. 175, §4 (RP) .]

3-D. Soft-shelled clam depuration harvesting in municipalities with municipal shellfish conservation programs. Soft-shelled clam depuration activities conducted within a municipality that has a municipal shellfish conservation program pursuant to section 6671 are subject to the following provisions.

A. Using the following general guidelines to identify whether pollution abatement activities are likely to succeed in a shellfish growing area, the commissioner may close a shellfish growing area for municipal pollution abatement activities.

(1) Pollution abatement activities are likely to succeed in shellfish growing areas affected by identified failing residential septic systems and other identified localized sources of human or animal fecal contamination when funding for abatement is available.

(2) Pollution abatement activities are not likely to succeed in shellfish growing areas affected by wastewater treatment plant outfall or other point sources of treated or partially treated sewage unless complete removal of pollution sources has been achieved.

(3) Abatement activities are not likely to succeed in shellfish growing areas affected by chronic nonpoint source contamination from rivers or streams.

At the request of the municipality, the commissioner may allow soft-shelled clam depuration harvesting in a shellfish growing area closed under this paragraph. [2011, c. 175, §5 (NEW) .]

B. In conducting depuration harvesting activities under this subsection, a person holding a depuration certificate shall engage commercial harvesters holding valid municipal and state commercial shellfish licenses. If there are insufficient municipally licensed commercial harvesters, the depuration certificate holder may supplement with other commercial shellfish harvesters licensed in the State. [2011, c. 175, §5 (NEW) .]

C. A depuration certificate holder shall maintain a generalized depuration management plan on file with the commissioner that sets forth methods for identifying harvest limits, operational procedures for harvest management and responsibilities of authorized representatives. [2011, c. 175, §5 (NEW) .]

D. A depuration certificate holder shall pay each municipality an amount equal to 50¢ for each bushel of soft-shelled clams taken in that municipality under the depuration certificate. When submitting payment to a municipality under this paragraph, the depuration certificate holder shall include a summary of reports submitted to the department pursuant to rules adopted under subsection 4. [2011, c. 175, §5 (NEW) .]

[2011, c. 175, §5 (NEW) .]

4. Rules. The commissioner may adopt or amend rules concerning:

A. The procedures for issuing certificates and the required qualifications for each type of certificate; [1977, c. 661, §5 (NEW) .]

B. The minimum sanitation standards for establishments and vehicles; [1977, c. 661, §5 (NEW) .]

C. The sanitation and quality control standards for shellfish and whole scallops and their products; [2001, c. 112, §3 (AMD) .]

D. The methods for taking, handling, shipping, transporting and processing of shellfish and whole scallops taken from closed areas; [2001, c. 112, §3 (AMD) .]

E. The records and reports of takings, purchases, processing, sales, shipping and transporting of shellfish and whole scallops; [2001, c. 112, §3 (AMD) .]

F. The labeling or marking of shipments of shellfish and whole scallops; and [2001, c. 112, §3 (AMD) .]

G. Other rules necessary to the public health. [2003, c. 248, §11 (AMD) .]

The rules must be based on the particular operational requirements of each activity, the most recently adopted federal sanitation standards and the most recent generally accepted research data, in a manner so as to protect the public health and safety while allowing reasonable use of the State's shellfish and whole scallops.

[2003, c. 248, §11 (AMD) .]

5. Right of entry. Whenever a certificate has been issued under this section, the commissioner, or the commissioner's agent, must have access to any establishment or part thereof for the purpose of inspection or collection of samples. Denial of access is grounds for suspension or revocation of any certificate or license under the provisions of section 6372.

[2011, c. 311, §6 (AMD) .]

6. Products embargoed and condemned. The commissioner, or the commissioner's agent, shall indefinitely embargo, condemn or order to be destroyed any shellfish, shellfish product or whole scallop in any establishment whenever it is determined that the product is of unsound quality, contains any filthy, decomposed or putrid substance, or may be poisonous or deleterious to health or otherwise unsafe. The commissioner and the commissioner's agent shall cooperate with those state and federal agencies having similar responsibility in the protection of public health and in enforcing the order to embargo, condemn or destroy.

In the event that any shellfish, shellfish product or whole scallop in any establishment is embargoed, condemned or ordered destroyed, the commissioner, or the commissioner's agent, shall, as soon thereafter as practical, notify the owner in writing of the amount and kind of shellfish, shellfish product or whole scallop embargoed, condemned or destroyed.

[2003, c. 248, §11 (AMD) .]

7. Resident depuration harvesters.

[2011, c. 175, §6 (RP) .]

8. Payments to municipalities.

[2011, c. 175, §7 (RP) .]

SECTION HISTORY

1977, c. 661, §5 (NEW). 1979, c. 249, (AMD). 1981, c. 462, §6 (AMD). 1989, c. 770, §1 (AMD). 1991, c. 831, §2 (AMD). 2001, c. 112, §§2-4 (AMD). 2003, c. 248, §11 (AMD). 2005, c. 508, §2 (AMD). 2007, c. 15, §§1-5 (AMD). 2007, c. 15, §6 (AFF). 2009, c. 561, §32 (AMD). 2011, c. 175, §§1-7 (AMD). 2011, c. 311, §6 (AMD).

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